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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,597	09/20/2001	Koji Sakuma	225-010566-US(PAR)	5449

2512 7590 02/10/2004

PERMAN & GREEN  
425 POST ROAD  
FAIRFIELD, CT 06824

EXAMINER
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YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/960,597

Applicant(s)

Sakuma

Examiner

John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 20, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other: \_\_\_\_\_

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## **FIRST ACTION REJECTION**

### **DRAWINGS**

1. This application has been filed with drawings that are considered informal; however, said drawings are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM REJECTION — 35 U.S.C. §103( a )**

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter

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pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dimitriadis 5,664,948 (09/09/1997) (herein referred to as “Dimitriadis”).

As per claim 1, Dimitriadis (col. 2, ll. 1-67; col. 9, ll. 43-67; col. 10, ll. 1-20; col. 3, ll. 35-67; col. 4, ll. 1-10; col. 4, ll. 40-67; FIG. 1 through FIG. 8; the ABSTRACT; col. 1, ll. 40-67; col. 5, ll. 1-30; and col. 6, ll. 9-50; and whole document) shows the “advertisement information providing apparatus” of claim 1.

Dimitriadis lacks explicit recitation of the elements and limitations of claim 1, even though Dimitriadis shows same, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis cited above would have been selected in accordance with the elements and limitations of claim 1 because selection of such disclosed features would have provided means for “[*delivering*] data and information including advertising information to a receiving device . . . by reference to a time schedule, to current receiving device location . . . [and] by developing a profile for the users of each device . . . .” (see Dimitriadis (col. 2, ll. 1-21; and col. 9, ll. 47-50)).

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As per dependent claims 2-8, Dimitriadis shows the method of claim 1 and subsequent base claims depending from claim 1.

Dimitriadis lacks explicit recitation of the elements and limitations of claims 2-8, even though the disclosure of Dimitriadis reasonably suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 2-8 were notoriously well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 2-8, because such elements and limitations would have provided means for “[*delivering*] data and information including advertising information to a receiving device . . . by reference to a time schedule, to current receiving device location . . . [and] by developing a profile for the users of each device . . . .” (see Dimitriadis (col. 2, ll. 1-21; and col. 9, ll. 47-50)).

Independent claim 9 is rejected for substantially the same reasons as independent claim 1.

Dependent claim 10 is rejected for substantially the same reasons as dependent claims 3 & 7.

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### CONCLUSION

3. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

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Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist

Crystal Park V

2451 Crystal Drive

Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

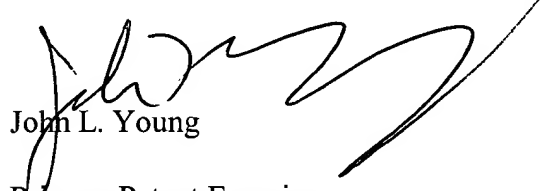
Serial Number: 09/960,597

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



John L. Young

Primary Patent Examiner

February 6, 2004